

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA**

**GREGORY HENDERSON,**

Petitioner,

V.

**MARTY SIRMONS, Warden,**

Respondent.

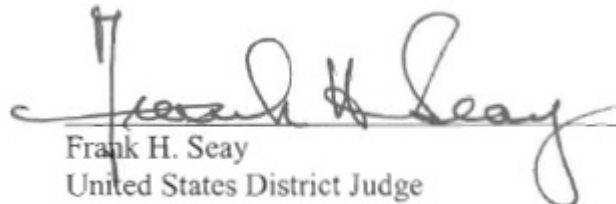
**No. CIV 02-621-FHS-KEW**

## **OPINION AND ORDER**

Petitioner appealed the denial of his petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, and the Tenth Circuit Court of Appeals reversed and remanded this court's decision with directions to conduct an evidentiary hearing. *Henderson v. Sirmons*, No. 06-7038, slip op. at 9 (10th Cir. July 21, 2008). The court is required to appoint counsel for petitioner, if he qualifies under 18 U.S.C. § 3006A. *See* Rule 8(c) of the Rules Governing Section 2254 Cases; *see also Swazo v. Wyoming Dep't of Corr. State Penitentiary Warden*, 23 F.3d 332, 333 (10th Cir. 1994) (holding that appointment of counsel is mandatory in habeas corpus proceeding when an evidentiary hearing is required).

ACCORDINGLY, petitioner is directed to complete a Financial Affidavit and to have the authorized officer at his institution complete a Statement of Institutional Accounts. Petitioner is further directed to file the two financial forms with the court within ten (10) days, so the court can determine his eligibility for appointed counsel. The Court Clerk is directed to send petitioner the two financial forms and to send a copy of this order to petitioner's custodian and the trust fund officer at petitioner's facility.

DATED this 11<sup>th</sup> day of August, 2008.



Frank H. Seay  
United States District Judge  
Eastern District of Oklahoma